

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

ALLEN HARKLEROAD,)	
)	CASE NO. 6:08-cv-00105-BAE-GRS
Plaintiff,)	
)	
v.)	
)	
NCO FINANCIAL SYSTEMS, INC.,)	
et al.,)	
)	
Defendant.)	
_____)	

ANSWER AND AFFIRMATIVE DEFENSES

NOW COMES Defendant, NCO Financial Systems, Inc., (“NCO”) by and through undersigned counsel, and, pursuant to Local Rule 3.2, hereby incorporates the attached Certificate of Interested Persons into the first page of its Answer. For its answer to plaintiff’s complaint, Defendant NCO Financial Systems, Inc. states as follows:

I. INTRODUCTION

1. NCO admits that plaintiff purports to bring an action for damages under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq., but denies any wrongdoing or violations of the FDCPA.

II. JURISDICTION AND VENUE

2. NCO admits jurisdiction and venue is proper. The allegations in ¶ 2 are otherwise denied.

III. PARTIES

3. NCO admits the allegations in ¶ 3, except as to plaintiff's name and status, which is admitted upon information and belief.

IV. FACTUAL ALLEGATIONS

4. NCO denies the allegations contained in ¶ 4 of the Complaint.

V. CLAIM FOR RELIEF

5. In response to ¶ 5, NCO hereby incorporates by reference its admissions and denials as set forth in the above paragraphs. In further response to ¶ 5, NCO denies any and all damages, wrongdoing or violations as alleged in ¶ 5.

PRAYER FOR RELIEF

6. NCO denies that plaintiff is entitled to the relief sought.

AND NOW, in further Answer to the Complaint, NCO avers as follows:

FIRST AFFIRMATIVE DEFENSE

One or more of the counts contained in the Complaint fail to state a claim against NCO upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

To the extent that a violation(s) is established, any such violation(s) was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid such error.

THIRD AFFIRMATIVE DEFENSE

Assuming that plaintiff suffered any damages, plaintiff has failed to mitigate his damages or take other reasonable steps to avoid or reduce his damages.

FOURTH AFFIRMATIVE DEFENSE

Any harm suffered by plaintiff was legally and proximately caused by persons, individuals, corporations, or entities beyond the control or supervision of NCO, or for whom NCO is not responsible or liable.

WHEREFORE, Defendant, NCO Financial Systems, Inc., respectfully requests that this answer be deemed good and sufficient, plaintiff's lawsuit be dismissed, with prejudice, at plaintiff's costs, pursuant to Federal and State law, plaintiff be ordered to pay reasonable attorney's fees and costs for NCO, and for all other general and equitable relief.

McLain & Merritt, P.C.

/s/ Albert J. DeCusati

Albert J. DeCusati, Esq.

Georgia Bar No. 215610

Attorneys for Defendant

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CERTIFICATE OF INTERESTED PARTIES
S.D. Ga. LR 3.2

The undersigned, counsel of record for Defendant NCO Financial Systems, Inc., certifies that the following is a full and complete list of the parties in this action:

Allen Harkleroad **Plaintiff**

NCO Financial Systems, Inc. **Defendant**

The undersigned further certifies that the following is a full and complete list of officers, directors, or trustees of the above-identified parties:

Michael J. Barrist, Director, Chief Executive Officer, President

Michael G. Noah, Senior Vice President

Steven L. Winokur, Director, Executive Vice President

Joshua Gindin, Director, Secretary

John R. Schwab, Chief Financial Officer, Executive Vice President, Treasurer

The undersigned further certifies that the following is a full and complete list of other persons, firms, partnerships, corporations, or organizations that have a financial interest in, or another interest which could be substantially affected by, the outcome of this case (including a relationship as a parent or holding company or similar relationship):

NCO Financial Systems, Inc., a Pennsylvania corporation, and NCO Holdings, Inc., a Delaware corporation, are wholly owned by JDR Holdings, Inc., also a Delaware corporation. JDR Holdings, Inc. is wholly owned by Compass International Services Corporation, a Delaware corporation. All of the above-mentioned corporations are wholly owned by NCO Group, Inc, a Delaware corporation. Various corporate affiliates of Citigroup Inc. own approximately 7% of NCO Group, Inc. stock. One Equity Partners and its corporate affiliates, which are affiliates of JP Morgan Chase & Co., own approximately 88% of NCO Group, Inc. stock.

CERTIFICATE OF SERVICE

This is to certify that I electronically filed the foregoing ANSWER AND AFFIRMATIVE DEFENSES with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record, and that a copy of the above and foregoing has been forwarded to Plaintiff by placing a copy of same in the U.S. Mail, postage prepaid, addressed as follows:

Mr. Allen Harkleroad, pro se
107 Ladd Circle
Statesboro, GA 30458

This 1st day of December, 2008.

McLain & Merritt, P.C.

/s/ Albert J. DeCusati
Albert J. DeCusati, Esq.
Georgia Bar No. 215610
Attorneys for Defendant
NCO Financial Systems, Inc.

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